

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
DEVPAT AB,	:	
	:	
Plaintiff,	:	<b>Civ. Action No.: 17-cv-2858</b>
	:	
v.	:	
	:	
USANA HEALTH SCIENCES, INC.,	:	
	:	
Defendant.	:	
-----X	:	

**DECLARATION OF ELANA B. ARAJ IN SUPPORT OF  
DEVPAT AB'S OPPOSITION TO USANA HEALTH SCIENCES, INC.'S  
MOTION TO DISMISS, OR IN THE ALTERNATIVE, TRANSFER VENUE**

1. I, Elana B. Araj, submit this declaration in support of Plaintiff DevPat AB's ("DevPat") opposition to Defendant USANA Health Sciences, Inc.'s ("USANA") motion to dismiss, or in the alternative, transfer venue in the above-identified action.
2. I am an associate at Greenberg Traurig, LLP and I represent DevPat in the above-identified matter.
3. Attached as Exhibit 1 is a true and correct copy of USANA's Annual Review 2017.
4. Attached as Exhibit 2 is a true and correct copy of USANA's responses to DevPat's first set of interrogatories.
5. Attached as Exhibit 3 is a true and correct copy of the Facebook page for USANA.NewYork, which is available at <https://www.facebook.com/Usana.NewYork/>.
6. Attached as Exhibit 4 is a true and correct copy of the Twitter page for USANA\_NY, which is available at [https://twitter.com/USANA\\_NY](https://twitter.com/USANA_NY).

7. Attached as Exhibit 5 is a true and correct copy of a press release entitled “USANA Is a Trusted Partner and Sponsor of The Dr. Oz Show,” which is available at <https://whatsupusana.com/2015/01/trusted-partner-sponsor-dr-oz-show/>.

8. Attached as Exhibit 6 is a true and correct copy of the webpage entitled “Enter to Win: USANA MySmart™ Shake Sweepstakes,” which is available at <http://www.doctoroz.com/page/usana-mysmartshak-sweepstakes>, and is labeled DEVPAT0000541-545.

9. Attached as Exhibit 7 is a true and correct copy of an email dated February 23, 2017, sent by Mr. Kevin McMurray of USANA to Mr. Stephen R. Barrese, Esq., which is labeled DEVPAT0000072-74.

10. Attached as Exhibit 8 is a true and correct copy of the Complaint filed in *USANA Health Sciences, Inc. v. SmartShake US, Inc., et al.*, No. 2:17-cv-00139-EJF (D. Ut.) (the “Utah Action”), which is labeled DEVPAT0000001-8.

11. Attached as Exhibit 9 is a true and correct copy of DevPat’s motion to dismiss filed in the Utah Action, which is labeled DEVPAT0000016-74.

12. Attached as Exhibit 10 is a true and correct copy of the Memorandum Decision and Order Granting DevPat’s motion to dismiss the Utah Action, which is labeled DEVPAT0000185-200.

13. Attached as Exhibit 11 is a true and correct copy of “The Dr. Oz Show” Promotion Agreement (2014-2015), which is labeled USANA001135-1153.

14. Attached as Exhibit 12 is a true and correct copy of the Amendment To Promotion Agreement, which is labeled USANA001528.

15. Attached as Exhibit 13 is a true and correct copy of “The Dr. Oz Show” Promotion Agreement (2017-2019), which is labeled USANA001701-1722.

16. Attached as Exhibit 14 is a true and correct copy of the webpage entitled “Direct Sellers to Be Honored with 2018 American Business Awards,” which is available at <https://www.directsellingnews.com/direct-sellers-to-be-honored-with-2018-american-business-awards/>.

17. Attached as Exhibit 15 is a true and correct copy of the email dated July 28, 2016 from Mr. Stuart Zimmerman to Mr. Dan Macuga, which is labeled USANA002107-2108.

18. Attached as Exhibit 16 is a true and correct copy of the webpage entitled “SONY PICTURES TELEVISION U.S. AD SALES,” which is labeled DEVPAT0000577-578.

19. Attached as Exhibit 17 is a true and correct copy of the spreadsheets labeled USANA001308-1310.

20. Attached as Exhibit 18 is a true and correct copy of USANA’s webpage, available at <https://mysmartshak.usana.com/pwp#/site/155003771/page/751202>, which is labeled DEVPAT0000585-591.

21. Attached as Exhibit 19 is a true and correct copy of the webpage entitled “USANA Distributor In New York,” which is available at <http://www.premium-vitamins.com/en/uana-in-new-york.html>.

22. Attached as Exhibit 20 is a true and correct copy of the website entitled “Get Show Tickets! | The Dr. Oz Show,” which is available at <https://www.doctoroz.com/tickets>.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed on July 24, 2018



Elana B. Araj  
*Counsel for Plaintiff DevPat AB*